

Message Text

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C O N F I D E N T I A L USUN 0392

LIMDIS

E.O. 11652: GDS
TAGS: UN, PFOR
SUBJECT: INTERNATIONAL LAW COMMISSION: CASUAL ELECTIONS

1. INTEREST IS MOUNTING OVER ELECTION TO VACANT ILC SEAT
CAUSED BY DEATH OF DISTINGUISHED NORWEGIAN JURIST AMBASSADOR
HAMBRO.

2. UN LEGAL COUNSEL SUY CONTACTED MISOFF AND MADE STRONG
PITCH THAT WEST SHOULD SUPPORT ELECTION OF ASIAN TO FILL THE
VACANCY SO THAT ILC COMPOSITION WILL BE BROUGHT IN LINE WITH
THE 1961 GENTLEMAN'S AGREEMENT. HE SAID BOTH YASSEEN
(IRAQI NATIONAL) AND TABIBI (AFGHANISTAN) WERE SEEKING THE
SLOT. SUY ARGUED THAT SUPPORT OF AGREEMENT IS IN WEST'S IN-
TEREST AND THAT IF WEST IS SEEN AS NOT TAKING ADVANTAGE THIS
OPPORTUNITY GRACIOUSLY TO RESTORE BALANCE IT WILL PAY A HEAVY
PRICE IN NEXT ILC ELECTIONS AND POSSIBLY IN OTHER AREAS AS
WELL WHERE AFRO ASIANS WILL FEEL ALL THE FREER TO REDUCE
WESTERN REPRESENTATION ON VARIOUS BODIES TO THE 16 PERCENT
WHICH REPRESENT THE PURELY NUMERICAL PERCENTAGE OF TOTAL
UN MEMBERSHIP WHO ARE WESTERN.

3. MISOFF SAID THAT (A) ELECTIONS TO FILL CASUAL VACAN-
CIES ARE MATTERS FOR DECISION BY INDEPENDENT EXPERT MEM-
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BERS OF THE COMMISSION NOT GOVERNMENTS, (B) ASIA LOST ITS
SEAT TO THE WEST IN THE 31ST GA ELECTIONS BECAUSE ASIAN
GROUP REFUSED WEO, LA, EE PLEA TO AGREE TO APPLY GENTLE-
MAN'S AGREEMENT (C) IT SEEMED IMPRUDENT TO GIVE ASIANS
SOMETHING WITHOUT ANY QUID PRO QQU SUCH AS AGREEMENT THAT
GENTLEMAN'S AGREEMENT CONSTITUTED AGREED INTERPRETATION OF
ILC STATUTE AND THUS BINDING ON ALL CONCERNED (D) NORDICS

HAD ALWAYS BEEN REPRESENTED ON ILC ON THEORY THEY HAD
UNIQUE LEGAL TRADITION.

4. SUY ACKNOWLEDGED ACCURACY OF THEESE COMMENTS BUT SAID
THEY DID NOT EFFECT THE VALIDITY OF HIS CONVICTION THAT
WEST WOULD BE THE LOSER IF IT DID NOT GRACIOUSLY SUPPORT
ASIAN FOR VACANT SEAT AND ASIAN WOULD ALMOST SURELY BE ELECTED
ANYWAY. HE ALSO SAID HE HAD NEVER FOUND MUCH MERIT IN
NOTION THAT NORDICS HAD A SPECIAL LEGAL SYSTEM.

5. IN SEPARATE CONVERSATION WITH FIFOOT (UK) AND HOFSTEE
(NETHERLANDS) BOTH VOLUNTEERED VIEW THAT WEST SHOULD SUP-
PORT ASIAN FOR THE VACANCY. HOFSTEE WAS EAGER TO CONVENE
WEOG MTG TO REACH FORMAL DECISION ON MATTER BUT WAS RE-
MINDED OF FACT THAT ELECTIONS WERE IN HANDS OF INDEPENDENT
EXPERTS AGREED TO MORE INFORMAL CONTACTS AMONG WESTERN
WESTERN STATES WHICH HAD NATIONAL CURRENTLY IN ILC.

6. COMMENT: WE INCLINE TO REGARD SUY'S ANALYSIS AS
CORRECT IN THAT WEST HAS MUCH TO LOSE AND NOTHING TO GAIN
BY TRYING TO STAND IN WAY OF ALMOST CERTAIN ELECTION OF
ASIAN TO FILL THE VACANCY. WE BELIEVE WESTERN NATIONAL
SERVING ON ILC WOULD BE WELL ADVISED TO CONSIDER HOW BEST
TO MAXIMIZE WEO BENEFIT FROM BEAU GESTE OF SUPPORT FOR
ASIAN. ILC PRONOUNCEMENT OR UNCHALLENGED STATEMENT BY
ILC PRESIDENT WHICH WOULD APPEAR IN REPORT OF ILC THAT
GENTLEMAN'S AGREEMENT CONSTITUTES AGREED INTERPRETATION
OF STATUTE WOULD LIKELY BE OPTIMAL ACHIEVABLE QUID PRO
QUO. END COMMENT.

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7. IF DEPARTMENT PERCEIVES NO OBJECTION WE PLAN CONSULT
INFORMALLY WITH OTHER WESTERN STATES WITH NATIONALS CUR-
RENTLY SERVING WITH VIEW TO LAYING GROUNDWORK FOR EXPERTS
BEING INFORMED THAT OUR RESPECTIVE GOVERNMENTS BELIEVE
LONG RUN WESTERN INTERESTS WOULD BE BEST SERVED IF ASIAN
ELECTED IN CONTEXT WHICH STRENGTHENED GENTLEMAN'S AGREE-
MENT. INDIVIDUALS IN QUESTION, OF COURSE, MUST BE LEFT
FREE TO EXERCISE THEIR OWN DISCRETION.
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